

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE AMENDING AND REENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 36.36–36.41 AND 36.98 REGARDING JEFFERSON COUNTY SHERIFF MERIT BOARD.

SPONSORED BY: COUNCILMEN BLACKWELL, KRAMER AND DOWNARD

BE IT ORDAINED BY LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) RESOLVED BY THE COUNCIL AS FOLLOWS:

SECTION I. LMCO Sections 36.36–36.41 and 36.98 are hereby amended and repealed as follows:

~~36.36 TRAINING REQUIREMENTS FOR ELIGIBILITY.~~

~~—(A)— Each person serving as a Jefferson County deputy sheriff on the effective date of this ordinance shall, within one year following the effective date of this ordinance, successfully complete at least 400 hours of training approved by the Kentucky Law Enforcement Council.~~

~~—(B)— Each person appointed as a deputy sheriff in Jefferson County and after the effective date of this ordinance, shall within one year following the appointment, successfully complete at least 400 hours of training approved by the Kentucky Law Enforcement Council.~~

~~—(C)— A deputy sheriff whose official duty is to provide security service to the courts, and who is compensated pursuant to KRS 64.092, shall, the provisions of~~

~~subsections (A) and (B) of this section notwithstanding, satisfy the training requirements for employment if he/she completes law enforcement training which the Administrative Office of the Courts certifies to the Sheriff as acceptable. If the training was not received prior to the effective date of this ordinance, in the case of a deputy sheriff serving when this ordinance was passed, or prior to the appointment in the case of a deputy sheriff appointed after the effective date of this ordinance, then it shall be received within one year following the effective date of this ordinance or the date of appointment, as the case may be.~~

~~—(D)— A person failing to meet the requirements of this section shall forfeit his/her position as deputy sheriff immediately upon the expiration of the applicable one year time limit.~~

36.36 ADOPTION OF RULES

(A) The Merit Board shall issue, and publish within forty-eight (48) hours after their adoption, rules that are not inconsistent with the provisions of this ordinance and KRS 70.260 to 70.273. The Board shall provide a certified copy of the rules to:

(1) The Sheriff who shall additionally post a copy in a conspicuous place in the main office and in any branch offices where deputies are regularly assigned to work from;

(2) The Mayor

(3) The Metro Council

(B) The Board shall, at a minimum, adopt a body of rules that addresses the following subjects:

(1) For deputy sheriffs:

a. Qualifications for initial and continued employment, which shall at a minimum include: citizenship, age, physical, mental, and educational requirements;

b. Grounds for temporary appointments;

c. Advancement requirements. Deputy sheriffs shall be employed for at least three (3) full years before being eligible for the rank of sergeant;

d. Factors that shall, or may, result in demotion, the procedures for determining whether or not to demote a deputy, and the procedures for executing a demotion;

e. Factors that shall, or may, result in fining, probation, suspension, or removal; and

f. Administrative procedures for the deputies in the office such as transfer, layoff, and reinstatement.

(2) For the general administration of the Board itself:

a. Organizational structure and conduct of meetings;

b. Procedure and conduct of public hearings as a result of the board's actions;
and

c. Implementation and execution of written and oral examinations, and physical tests of fitness for appointment and promotion of deputies.

(C) The subsequent issuance of additional rules, or of the repeal or amendment of existing rules shall follow the provisions indicated in subsection (A) of this section.

36.37 TRAINING REQUIREMENTS

(A) Each person serving as a covered deputy sheriff of the effective date of this ordinance shall have successfully completed, within one (1) year following the effective date of this ordinance, at least six hundred forty (640) hours of training approved by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the Ordinance may be used to satisfy all or part of this requirement.

(B) Each person appointed as a covered deputy sheriff after the effective date of this Ordinance shall have successfully completed, within one (1) year following the appointment, at least six hundred forty (640) hours of training approved by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the Ordinance may be used to satisfy all or part of this requirement.

(C) A deputy sheriff whose official duty is to provide security service to the courts, and who is compensated pursuant o KRS 64.092, shall, the provisions of subsections (A) and (B) of this section notwithstanding, satisfy the training requirements for employment if he completes law enforcement training which the Administrative Office of the Courts certifies to the sheriff as acceptable. If the training was not received prior to the effective date of this Ordinance, in the case of a deputy sheriff serving when the ordinance was passed, or prior to the appointment in the case of a deputy sheriff appointed after the effective date of the Ordinance, then it shall be received within one (1) year following the effective date of the Ordinance or the date of appointment, as the case may be.

(D) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

36.38 MERIT BOARD TO EMPLOY CHIEF EXAMINER

(A) The Merit Board shall employ a chief examiner who shall operate under the Board's sole supervision.

(B) The Board shall only employ a person for this position who is qualified and experienced in the field of testing.

(C) The examiner shall design, administer, and evaluate all written tests the Board requires applicants for promotion to take for consideration for promotion.

Each applicant for promotion shall be given an oral and written examination to determine the applicant's qualification for promotion.

(D) The examiner shall select a panel of three (3) persons to conduct the oral portion of the exam battery. The panel shall be selected from an agency other than the local sheriff's office, and the panel members shall be of at least the same rank to which the applicant aspires and of the same field.

(E) Unless the sheriff certifies that the applicant is not physically fit for promotion, physical fitness shall be presumed.

(F) (a) The composite score of the examination battery shall be calculated as follows:

(1) Sixty five percent (65%) for the written examination; and

(2) Thirty-five percent (35%) for the oral examination.

(b) An applicant shall receive one (1) seniority point to be added to the composite score for each full year over three (3) full years of service. No applicant shall receive more than ten (10) seniority points. No applicant shall receive a seniority point for serving less than a full year.

(G) Testing and scoring methods shall not depart from, or be inconsistent with, those set out in this section.

(H) The chief examiner shall deliver the final scores of the applicants for promotion, in a manner that will ensure complete privacy and confidentiality of the applicants and their score, directly to the chair of the Board. The chief examiner shall not release this information to anyone but the chair of the Board.

(I) Notice of the date, time, and place of examination shall be given no later than ninety (90) days before the examination date.

(J) Promotions shall be filled by the sheriff from a list of no more than three (3) of the candidates who obtained the highest combined scores on the written and oral examination, including any seniority points, and are physically fit to serve in the new capacity.

~~36.37~~ 36.39 PROHIBITED CONDUCT AND PROBATIONARY PERIOD.

(A) No deputy sheriff covered by the provisions of this ordinance shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(B) No deputy sheriff covered by the provisions of this ordinance shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a

sheriff to revoke the appointment of a deputy during the probationary period described in subsection (E) of this section.

(C) No deputy sheriff covered by the provisions of this ordinance shall be a candidate for any public office. Any person who violates this subsection shall forfeit his/her position as deputy sheriff.

(D) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his/her personal opinions, beliefs, or right to vote.

(E) A deputy sheriff's employment shall be probationary during the first year of service following an initial appointment or a promotional appointment. A sheriff may, at his/her pleasure, revoke the appointment of a deputy who works for him/her at any time within one year following the appointment.

~~36.38~~ 36.40 DISCIPLINARY AND REMOVAL PROCEDURES BY SHERIFF.

(A) Any deputy sheriff may be removed, suspended, or laid off by the Sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in § ~~36.37~~ 36.39(E), the Sheriff shall furnish the a covered deputy with a written statement of the reason why the action was taken.

(B) Except for the revocation of an appointment pursuant to § ~~36.37~~ 36.39(E), every action in the nature of a dismissal, suspension or reduction made

by the Sheriff shall be subject to review by the Merit Board at the request of any deputy sheriff affected by the provisions of this ordinance.

(C) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of this ordinance shall present the charges to the Sheriff, who shall investigate the charges. The Sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in this ordinance. The citizen may appeal the determination of the Sheriff to the Board. When the Sheriff determines the charges against the deputy, the Sheriff shall notify the complainant, in writing, with a copy to the Merit Board, of the disposition of the charges and shall advise the complainant of his/her right of appeal to the Merit Board, as well as the steps necessary to effect any such appeal.

~~36.39~~ 36.41 DISCIPLINARY AND REMOVAL PROCEDURES BY THE MERIT BOARD.

(A) The Merit Board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of this ordinance on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy sheriff accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him/her.

(B) Procedural due process shall be afforded to all deputy sheriffs by the Merit Board. The Merit Board shall notify the deputy promptly and in writing of any charges brought against him/her by the Board or by a citizen. The Merit Board shall have the power to issue subpoenas and compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within 60 days of any charge being preferred shall be reinstated in full.

(C) After a full public hearing by the Merit Board, the Board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The Merit Board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the Board's counsel, prior to reaching its determination and conclusion.

(D) When an appointment is revoked during the probationary period described in § ~~36.37~~ 36.39(E), the action of the Sheriff shall be final. In all other disciplinary matters, the action of the Sheriff or the Merit Board shall be final, except that any aggrieved person may, within 30 days after the decision of the Board is rendered, appeal to the Jefferson County Circuit Court. The Merit Board shall be named as respondent, and the county attorney shall represent the Board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(E) The provisions of this ordinance shall not apply to any non-sworn employee appointed by the Sheriff pursuant to KRS 70.030, or to any special deputy appointment by the Sheriff pursuant to KRS 70.045, or to a deputy in a policy making or confidential position excluded from coverage by this ordinance.

~~36.40~~ APPOINTMENT OF BOARD MEMBERS AND ADOPTION OF RULES.

~~—(A) Within 30 days of the enactment of this ordinance, the members of the Merit Board shall be appointed and elected in conformity with § 36.35 of this ordinance.~~

~~—(B) Within 60 days after their appointment, the Merit Board shall submit to the Mayor and the Sheriff its rules, regulations and procedures for the conduct of its meetings, receipt of complaints, the conduct of disciplinary hearings and such other matters within the purview of the Merit Board's authority under this ordinance. If neither the Mayor or the Sheriff disapprove of the Merit Board's rules, regulations and procedures within 30 days, such shall become effective thereafter.~~

~~36.41~~ 36.42 INTERPRETATION OF ORDINANCE.

This ordinance and all provisions herein shall be interpreted in all respects consistent with KRS 70.260 to KRS 70.273 as said statutes may be amended, renumbered or re-codified from time to time. In the event the General Assembly should repeal the provisions of KRS 70.260 to KRS 70.273 in their entirety and fail to enact substitute legislation for the continuance of deputy sheriff merit

boards, then in that event, this ordinance shall automatically be repealed and of no further force and effect without additional formal action by the Metro Council.

36.98 SEVERABILITY.

If any provisions of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

SECTION II. This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____
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